

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

**Proposing rule making related to licensing and regulation of vehicle recyclers
and providing an opportunity for public comment**

The Transportation Department hereby proposes to amend Chapter 400, “Vehicle Registration and Certificate of Title,” and Chapter 431, “Vehicle Recyclers,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 307.12 and 321H.4A.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 321H.4A.

Purpose and Summary

This proposed rule making relates to the licensing and regulation of vehicle recyclers and implements existing legal authority under Iowa Code chapter 321H.

The proposed amendments to Chapter 400 add Iowa Code section 321H.4A to an implementation sentence, make minor technical changes, and adopt new subrule 400.23(2) to implement existing statutory authority to establish the National Motor Vehicle Title Information System (NMVTIS) reporting criteria when a vehicle is being junked or dismantled by a licensed vehicle recycler. The proposed new subrule establishes the responsibility for completing the required NMVTIS reporting and provides three options for compliance. One option is for the vehicle owner or vehicle owner’s authorized representative to provide a copy of the vehicle owner’s or authorized representative’s government-issued photo identification during the initial transaction between the parties and for the licensed vehicle recycler to verify that the owner or authorized representative has completed the required NMVTIS reporting. The second option, if the vehicle owner is another licensed vehicle recycler or is a business regularly engaged in the junking or dismantling of vehicles, is for the licensed vehicle recycler to enter into a written agreement confirming that the owner has completed the required NMVTIS reporting. The third option is for the licensed vehicle recycler to obtain the vehicle owner’s or authorized representative’s name and the vehicle identification number of the vehicle so that the vehicle recycler can complete the NMVTIS reporting. The proposed new subrule also provides that a licensed vehicle recycler is required to cooperate with law enforcement during normal business hours when there is a reasonable belief that fraud has occurred in connection with the junking or dismantling of a vehicle.

The proposed amendments to Chapter 431 correct the contact information to refer to the Motor Vehicle Division, add Iowa Code section 321H.4A to relevant implementation sentences, and make minor technical changes. Other proposed amendments to Chapter 431 align the subrules governing application requirements and other criteria for a vehicle recycler license with Iowa Code sections 321H.4 and 321H.4A, which require a licensed vehicle recycler to submit proof of registration with the NMVTIS and to comply with applicable NMVTIS reporting and record-keeping requirements when a vehicle is purchased by a licensed vehicle recycler.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 761—Chapter 11.

Public Comment

Any interested person may submit written comments concerning this proposed rule making or may submit a written request to make an oral presentation at a public hearing. Written comments or requests to present oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on July 5, 2022. Comments should be directed to:

Tracy George
Department of Transportation
DOT Rules Administrator, Government and Community Relations
800 Lincoln Way
Ames, Iowa 50010
Email: tracy.george@iowadot.us

Public Hearing

If requested, a public hearing to hear oral presentations will be held on July 7, 2022, via conference call at 10 a.m. Persons who wish to participate in the conference call should contact Tracy George before 4:30 p.m. on July 5, 2022, to facilitate an orderly hearing. A conference call number will be provided to participants prior to the hearing.

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact Tracy George and advise of specific needs.

The public hearing will be canceled without further notice if no oral presentation is requested.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule 761—400.23(321) as follows:

761—400.23(321) Junked vehicle.

400.23(1) *Junking certificate.* The owner of a vehicle that is to be junked or dismantled shall obtain a junking certificate ~~in accordance with~~ when required by Iowa Code subsection 321.52(3) section 321.52.

400.23(2) *Required verification.*

a. One of the following shall satisfy the required verification when a vehicle owner junks or dismantles a vehicle to a licensed vehicle recycler under Iowa Code section 321.52(2)“b” or 321H.4A(2)“b”:

(1) The owner or authorized representative provides information to the licensed vehicle recycler who acquires the vehicle, including, at a minimum, government-issued photo identification and verification of prior reporting to the National Motor Vehicle Title Information System (NMVTIS). For a subsequent transaction with the licensed vehicle recycler, the vehicle owner or authorized representative is not required to provide government-issued photo identification if the licensed vehicle recycler has

retained such information from a prior transaction. A licensed vehicle recycler is not required to report a vehicle verified under this subparagraph to the NMVTIS.

(2) The vehicle's owner is a licensed vehicle recycler or is the authorized representative of an established commercial or industrial business, operating from a fixed location, that is known to the licensed vehicle recycler to be regularly engaged in the junking or dismantling of vehicles or may reasonably be expected to produce vehicles for junking or dismantling and has entered into a written agreement with the licensed vehicle recycler confirming it has reported the vehicles to the NMVTIS. The written agreement shall, at a minimum, contain the owner's or authorized representative's name and address. A licensed vehicle recycler is not required to report a vehicle covered under an agreement under this subparagraph to the NMVTIS.

(3) The licensed vehicle recycler obtains the vehicle owner's or authorized representative's name and the vehicle identification number for the vehicle being junked or dismantled, and the vehicle recycler reports the vehicle to the NMVTIS.

b. A licensed vehicle recycler acquiring a vehicle as described under this subrule shall cooperate with a law enforcement agency during normal business hours when the agency has reason to believe that fraud has occurred in connection with the junking or dismantling of the vehicle. A law enforcement agency shall maintain the information as confidential and shall not disclose the information to a third party, except as may be necessary for the prosecution of a criminal violation.

~~400.23(2)~~ **400.23(3)** *Retitling a junked vehicle.* The department may authorize issuance of a new certificate of title to the vehicle owner named on the junking certificate only if the department determines that the junking certificate was issued in error.

a. to c. No change.

This rule is intended to implement Iowa Code ~~subsection 321.52(3)~~ sections 321.52 and 321H.4A.

ITEM 2. Amend rule 761—431.1(321H) as follows:

761—431.1(321H) General.

431.1(1) Information. Information and blank forms relating to this chapter may be obtained from and completed forms shall be submitted to the ~~Office of Motor Vehicle Services Division~~, Iowa Department of Transportation, P.O. Box 9278, Des Moines, Iowa 50306-9278. Information and forms are also available on the department's ~~Web site~~ website at ~~http://www.iowadot.gov/mvd~~ www.iowadot.gov.

431.1(2) Definitions.

"Principal place of business" means a building actually occupied where the public and the department may contact the owner or operator during regular business hours.

"Regular business hours" means to be consistently open to the public on a weekly basis at hours reported to the ~~office of motor vehicle services division~~. Regular business hours shall include a minimum of 32 posted hours between 7 a.m. and 9 p.m., Monday through Friday.

This rule is intended to implement Iowa Code sections 321H.2 and 321H.4.

ITEM 3. Adopt the following **new** paragraph **431.2(1)"d"**:

d. If subject to the requirements of 28 CFR Section 25.56, as adopted in Iowa Code section 321H.4A(2)"a," do all of the following:

(1) Obtain and maintain a registered account with the National Motor Vehicle Title Information System (NMVTIS).

(2) Report, or verify reporting of, inventory to the NMVTIS.

(3) If applicable, verify the seller of a vehicle purchased by the recycler has complied with 28 CFR Section 25.56 and document such verification on a form prescribed by the department if third-party electronic records are insufficient to verify compliance with 28 CFR Section 25.56 because the vehicle has been crushed or flattened by mechanical means, as stated in Iowa Code section 321H.4A.

(4) Retain records of compliance, including verification forms completed under subparagraph 431.2(1)"d"(3), at the vehicle recycler's principal place of business for at least three years after the purchase of the vehicle. Records may be stored either in hard copy or electronically. Records of compliance shall be open for inspection by any peace officer during normal business hours.

ITEM 4. Amend rule **761—431.2(321H)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~section~~ sections 321H.4 and 321H.4A.

ITEM 5. Adopt the following **new** subrule 431.3(8):

431.3(8) The applicant shall include the unique NMVTIS identification number as proof of compliance with registration requirements.

ITEM 6. Amend rule **761—431.3(321H)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~section~~ sections 321H.4 and 321H.4A.